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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION THREE

THE PEOPLE,

Plaintiff and Respondent,

v.

FELIX CAMELINO PAZ,

Defendant and Appellant.

A123376

(Napa County  
Super. Ct. No. CR137856)

**POLLAK, J.**—Defendant Felix Camelino Paz was sentenced to three years in prison after pleading no contest to one count of threatening to commit a crime resulting in death or bodily injury and one count of misdemeanor battery. Defendant filed a notice of appeal challenging the validity of his plea, along with a request for certificate of probable cause, which was granted by the trial court. In his request for a certificate of probable cause, defendant states that “false and mixed statements” were made by the victims and that “due to [the] plea bargain, [he] was not able to explain in [his] words what took place at verbal and physical confrontation.” He requests the court dismiss or lessen the charges against him “due to allegations and severity of supposed criminal act.” We appointed counsel to represent defendant on appeal. Appointed counsel on appeal has filed a brief under *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth the facts and procedural history, raising no specific issues, and requesting this court to conduct an independent review of the record. Defendant was offered an opportunity to file a personal supplemental brief, which he failed to do. We

have now concluded our independent review of the record and find no arguable issues. Accordingly, we affirm.

### **Background**

Defendant was charged by information with assault with a deadly weapon (Pen. Code,<sup>1</sup> § 245, subd. (a)(1)); three counts of making threats to commit a crime resulting in death or bodily injury (§ 422); and battery (§ 242). The information also alleged that defendant used a knife during the commission of the assault (§ 1192.7, subd. (c)(23)) and that he had suffered four prior felony convictions and served two prior prison terms (§ 667.5, subd. (b)).

Defendant made a *Marsden*<sup>2</sup> motion on November 20, 2007. A hearing was held but no ruling was issued because the public defender's office voluntarily reassigned defendant's case to a new attorney. On December 6, 2007, criminal proceedings were suspended and defendant was referred for a competency evaluation pursuant to section 1367. Defendant was found incompetent to stand trial based on the doctor's evaluation. On August 22, 2008, defendant's competency was restored and criminal proceedings were reinstated.

On October 31, 2008, defendant pled no contest to one count of making a criminal threat, one count of misdemeanor battery and admitted having suffered one prior felony conviction in exchange for a maximum sentence of three years in prison. The court sentenced defendant, consistent with the negotiated plea, to the middle term of two years for the criminal threat, a consecutive one-year term for the prior conviction and a concurrent six-month term in county jail for the battery. Defendant filed a timely notice of appeal.

### **Discussion**

No error occurred with regard to defendant's *Marsden* motion. Criminal proceedings were suspended while defendant was incompetent to stand trial. The court's

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<sup>1</sup> All statutory references are to the Penal Code unless otherwise noted.

<sup>2</sup> *People v. Marsden* (1970) 2 Cal.3d 118.

determination in August 2008 that competency had been restored was supported by the report prepared by his treating doctors at the Napa State Hospital, on which the parties submitted the issue. (See *People v. Leonard* (2007) 40 Cal.4th 1370, 1393.)

At the time defendant entered his plea, he was represented by able counsel. The court fully informed defendant of the consequences of his plea and the rights he would be giving up by his plea before it was entered, and the record satisfactorily shows defendant's plea was fully informed and freely made. His attorney explained that defendant was entering the plea pursuant to *People v. West* (1970) 3 Cal.3d 595 in that "Mr. Paz denies that he has committed any of these criminal offenses, but in looking at and considering the possibility of his being convicted at trial, and the consequences to him if he is convicted, given the fact that all but one of the allegations against him are strike offenses, and considering the amount of time that the court could impose if he were convicted, and considering the fact that there is a presumption against him being granted probation if he is convicted because of his prior offenses, that he is willing to enter pleas of no contest to [the specified offenses]." Defendant confirmed that he understood the proceedings and that while he found it "obviously unfair that mishaps like this go against one person by the word of three other very wonderful people" he did not "want to pick up a whole lot more time or any strikes" in addition to the one he was agreeing to in the plea deal. Beyond what was written in the request for certificate of probable cause, the record does not reflect an attempt by defendant to withdraw his plea.

Defendant was sentenced in conformity with the terms of the negotiated plea bargain.

### **Disposition**

The judgment is affirmed.

McGuinness, P. J., and Siggins, J., concurred.